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In re Application of :
MONTIELONE, Gaetano :
U.S. Application No.: 10/536,705 :
PCT No.: PCT/US2004/020244 :
Int. Filing Date: 26 June 2004 :
Priority Date: 27 June 2003 :
Attorney Docket No.: RUT0001-00US :
For: RIBOSOMAL RNA :
METHYLTRANSFERASES RlmA; :
TARGET VALIDATION AND :
PROCESSES FOR DEVELOPING AN :
INHIBITOR ASSAY . . . :

**DECISION ON
PETITION FOR REVIVAL
UNDER 37 CFR 1.137(a) and,
37 CFR 1.137(b)**

This decision is in response applicant's petition to revive under 37 CFR 1.137(a) and in the alternative, 37 CFR 1.137(b) filed on 23 August 2006.

BACKGROUND

On 09 January 2006, a Notification of Missing Requirements Under 35 U.S.C. 371 in the United States Designated/Elected Office (DO/EO/US) (Form PCT/DO/EO/905) was mailed indicating that additional claim fees, an executed declaration and surcharge fee was required. Applicants were given two months to respond with extensions of time available.

On 08 March 2006, applicant submitted a response which included, *inter alia*, an executed declaration, a preliminary amendment to change claims and authorization to charge the required fees to Deposit Account No. 50-1943.

On 13 July 2006, a Notification of Abandonment (Form PCT/DO/EO/909) was mailed for failure to pay the required surcharge fee.

On 23 August 2006, 09 May 2006, applicant submitted the subject petition under 37 CFR 1.137(a) and 37 CFR 1.137(b) along with a copy of the documents previously filed 08 March 2006.

DISCUSSION

Petition Under 37 CFR 1.137(a)

A petition to revive an abandoned application pursuant to 37 CFR 1.137(a) must be accompanied by: (1) the required reply; (2) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; (3) any terminal disclaimer required pursuant to 37 CFR 1.137(c); and (4) the petition fee. Applicant submitted items (1), (3) and (4).

Regarding item (2), a check with Patricia Booker of the DO/EO/US reveals that the documents filed 08 March 2006 were received and the required fees were attempted to be collected from Deposit Account No. 50-1943. However, there were insufficient funds in the account to collect the required fee. For this reason, item (2) is not satisfied.

Accordingly, applicant's petition to revive under 37 CFR 1.137(a) is **DISMISSED**.

Petition Under 37 CFR 1.137(b)

Applicant's petition to revive under 37 CFR 1.137(b) filed in the alternative is hereby **GRANTED** as follows:

The required surcharge fee and the petition fee for a small entity have been paid. Applicant makes the required statement pursuant to 37 CFR 1.137(b)(3). A terminal disclaimer is not required.

Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing.



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